

Meeting of 1999-11-1 Special Meeting

MINUTES
SPECIAL CALLED MEETING
LAWTON CITY COUNCIL
NOVEMBER 1, 1999 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk

The meeting was called to order at 6:00 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
 Richard Williams, Ward Two
 Glenn Devine, Ward Three
 John Purcell, Ward Four
 Robert Shanklin, Ward Five
Charles Beller, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None.

BUSINESS ITEM:

1. Consider adopting an ordinance amending Sections 22-1-2-112 and 22-1-2-113, Chapter 22, Lawton City Code, 1995, and adopting a resolution amending Section 22-112, Appendix A, Schedule of Fees and Charges, to modify the rates charged for sale of water outside the City limits, and establish an effective date. Exhibits: Ordinance No. 99-____; Resolution No. 99-____; 10/13/99 Minutes from Outside Water Sales Committee.

Mayor Powell welcomed those in attendance and said they appreciated the concerns. He asked that the meeting be conducted in a professional manner and that personalities be kept out of it. He read the item title and recognized Shanklin to speak as he had requested the item.

Shanklin said he brought this up and for the record and those in the audience, he wanted them to understand where he was coming from. He said the City of Lawton has around 450 miles of water distribution lines that are worth \$80 a foot when we have to do an emergency and \$50 a foot otherwise, so that is around \$130 million in water lines and assets to the City of Lawton. In addition, we have a \$45 million plant that develops this water. Lawton has been told in the last year by EPA that \$15 million of that plant is no good, so we are looking at \$33 million in ad valorem tax to expand and bring the plant up to the EPA mandate and standards, so you add that in there. Now, we owe \$40 million for Waurika; we had vision and a gentleman the other night said he was part of it, and it will probably not be used in Shanklin's lifetime. He said if we had \$60 million worth of sewer line problems, we probably have more than \$60 million worth of water distribution problems, so when you add all those together, we are looking at \$320 million of assets that will soon have to be done, and some of those outside the City are buying water at \$1.07. He said the whole system is just as valuable at the bottom of the line at 400 feet from the 82nd Street water tower as it is out at Medicine Park; the citizens of Lawton own this and have been paying for it and paying for it and now we will ask them to pay for it again.

Shanklin said the other night, information was distributed and it will cost Pecan Valley \$13,200 for 161 homes to pay the same thing as they would have in Lawton. He said Rural Water District #3, it would cost them \$6,504. Shanklin said he did not think it was asking too much if the citizens of Lawton are going to invest \$320 million in their water distribution system, from the filter plant to distribution, and it is not asking too much to ask outside customers to pay as much as Lawton residents pay.

Mayor Powell suggested representatives of each district come forward and express their concerns.

Billy Pennick, Rural Water District #1 Chairman, said they had other board members present, as well as several customers, and Gene Whatley, Oklahoma Rural Water Association Executive Director, who represents rural water districts

at the State level. He said Whatley was present to support rural water districts, but also to answer any questions there might be on existing law or proposed legislation that may effect the actions being proposed by the City.

Pennick said RWD #1 extends from the intersection of the Interstate on Highway 49, through Medicine Park, around Lake Lawtonka, down to a point three miles north of Meers, so it is a rather long district, and they connect to Lawton's line near the filter plant and pump through 125 miles of water lines, five pump stations, and eight towers to provide water to 1,042 customers. He said they had been organized as a rural water district for 31 years and during that period, they had been very loyal customers to the City of Lawton and they purchase all of their water from Lawton. Pennick said the latest contract is dated 14 January 1980 with two addendums, one of which modified the term so the contract would be automatically renewed every two years unless there was an objection by either party or terminated by mutual consent. He said the contract states the district will pay the then existing rate charged by the City for commercial water users located outside the City limits. Pennick said the proposed resolution, page two, 22-112, it states that water rates outside the City limits, commercial and industrial will be determined by negotiations between parties.

Pennick said the first time they knew of this action was when they got the newspaper on Tuesday morning and found that unilaterally it was being proposed that their water rates would go up tremendously. He said last Tuesday night, wiser heads prevailed and this meeting was called and they were being allowed to present their side before a final decision was made. Pennick said he could update some of the data as it pertained to RWD #1, and information indicated they had 913 customers but they have 1,042. It indicates the impact would be an additional \$165,000 but the way they computed it, using the City's guidelines, it was \$193,000 impact, which is considerable.

Pennick said in the past 12 months, RWD #1 has purchased 120 million gallons of water from Lawton, and for that water, they paid \$131,000. Using the guidelines in this resolution, the cost would go to \$323,000 for an increase of \$192,652 in one year, which is about a 150% increase in the water rates. He introduced Dr. Jack McGinnis, a dentist with his office in Lawton and a resident of RWD #1, to discuss comparisons of water rates.

Dr. Jack McGinnis said he had been in RWD #1 for over 20 years and attended the meeting where cheap water was discussed as compared to in town and out of town rates but they got a little mixed up about what everyone was paying. He said what the rural water district pays and what the customer pays are not the same. McGinnis said last Wednesday he got his water bill from Lawton and he had used 9,000 gallons and the water portion of the bill was \$19.88; he said the same 9,000 gallons from RWD #1 would have been \$41.40; RWD #2 would have been \$35.00; RWD #3 is \$41, so they are not getting cheap water and are paying more than those in Lawton. McGinnis said one of the reasons is they have to maintain 125 miles of line and are probably covering an area larger than the square miles in Lawton. He said when he first moved out there, it was hard to get a trickle of water but the people on the board before him had foresight and planning and spent the money to have good water pressure and they had done a good job of upgrading their system and making it ready for today and for tomorrow, and Lawton may not have done as good a job as they had in that department.

Mayor Powell asked that personalities not enter into the discussion or criticizing one another. McGinnis apologized and said he did not mean that individually or personally. Beller asked how things could be compared if Council was not told the costs. Mayor Powell said the costs was fine but he did not want the criticism about the City's maintenance of its lines, and the facts were fine. McGinnis apologized again and asked that his remarks not be taken in that manner.

McGinnis said he had heard that Lawton was giving its water away but they had paid \$130,000 for the water last year. He said since RWD #1 was one of the City's customers, he felt it would have been nice if they would have been asked for input before tonight; there is a committee set up especially for this and there were at least two meetings and no input was requested, and some of this tonight could have been eliminated if that would have been done.

McGinnis said one part of the ordinance dealt with how many individual meters there were and how much they would be charged per meter. He said they felt that once they bought the water from the City, what they do with it, the City is not in that business any more. McGinnis said they want to buy the water and pay for it and what they want to do with it ought to be their concern. He said it would make it a lot simpler for Lawton to just figure out what the water costs, ask for a decent profit, and sell the water. McGinnis said they ought to sit down and visit about what the true cost of the water is, what Lawton's cost is to get it to RWD #1, and that RWD #1 should not have to be concerned about the cost to get the water to the south part of Lawton or to Geronimo. He said if he drives on the turnpike and gets off at Elgin, he pays a quarter, and what it costs to get to Chickasha or Oklahoma City is really not involved, so what it costs for them to pick the water up should be different from what others are charged. McGinnis said they understand Lawton has a monopoly but you cannot operate without others being involved and just because it is a monopoly does not mean you can do anything you want to; if you abuse a monopoly, the courts will get involved; if you abuse a monopoly, the State Legislature will get involved, and neither party wanted that. He asked that they not pass anything tonight but work out a true cost and value for water.

Dennis Butler, Attorney for Rural Water District #3, said the district serves the area south of Lawton and back to the east, and that Karen and Wayne Bishop are also present. The district serves about 550 customers and have several hundred miles of line. He said RWD #3 does not buy all of its water from Lawton; they were formed 25 years ago and got their water from wells until 1985 when a contract was negotiated with Lawton for supplemental water and allows them to add more meters to their system. Butler said for a number of years, they were locked in to approximately 400 meters and could not expand because they did not have water, although there was a tremendous demand for meters by people wanting to build houses on acreage but they had a finite amount of water from the wells so in 1985 they negotiated a contract with Lawton.

Butler said he did not necessarily see this as an adversarial position; people who live in the country and want water are in the Lawton trade area and when they build a house ten miles southeast of town, they come to Lawton and shop and pay taxes so Lawton benefits from that, so we are all in this together. He said he agreed Lawton had a monopoly and agreed Lawton could not arbitrarily charge what it wanted to; when Lawton entered into a contract with RWD #3 there were negotiations involved and on 14 November 1985 it was reduced to writing in a ten page contract that was signed by all the parties. Butler said the contract makes two references and incorporates Title 11 Oklahoma Statutes, 37-119, that sets forth a formula or criteria by which a city that sells water to an individual rural water district can raise the rates; there is no question Lawton can raise the rates but the contract between the parties sets forth a formula by which these rates are to be arrived at. Butler said he had seen no evidence of anybody using a formula that is set out in the contract and the statute by which you arrive at how the rates are to be raised.

Butler said they signed the contract in 1985 and the City raised the rates about a year later from \$1.50 per thousand to \$1.61 and they did not say anything, although at that time they had no accounting or nothing from the City to indicate the rate was justified, but it was a minimum amount and the district paid it and did not say anything, but the rates being proposed now would affect some of their low income users to the point it would almost double their water bills. He said they had a lot of elderly people on their system that did not use much water and to do what is being discussed would double their rates and that is pretty drastic. Butler said when the contract was negotiated, the City drove a pretty hard bargain; RWD #3 had to lay about 1,700 feet of 12" water line up to Lawton's system and tie it on at their expense, they had to get the easements and pay for them and pay for the line and meter and the hook up and they did all of that. He said the City's attorney did a good job on the contract because paragraph after paragraph states the water district will pay, and they had done all of that. Butler said they had lived up to the contract and been a good customer and not late on the bills, and that some large in town users, such as the water slide, may not have paid their bill. He said he knew the City needed the revenue and the CIP was coming up and things needed to be improved, but rather than jumping on your good customers that are paying their bills, why not go after the dead beats that are not paying their bills and see if you can get some relief for your people that way. Butler said he was not saying the City did not have the right to raise the rates because the City does have that right, but the law provides and the contract provides a formula and criteria by which it must be done and he was asking the City to do what it agreed to do when it signed the contract, which is abide by the formula and let the district sit down and go over the numbers with the City and see if something can be worked out that everyone can live with.

Purcell asked how many customers there were in RWD #3 and Butler said about 525. Butler said there were about 400 before they got signed up with the City. Butler said they added about 125 since they got Lawton's additional water.

Mayor Powell asked if it was 550 customers or 525. A lady spoke from the audience stating that some are still pending buying meters but that if this goes through, RWD #3 would not be able to provide service to them; 350 people are waiting and the district is constructing lines. She said if this goes through, the rate would increase 50% plus and they would have to stop and seek other sources.

Shanklin said if there are 550 customers, \$10 per year would be \$5,500 and \$11 would be \$6,600 roughly, and that was all they were going to be raised was \$6,504 for the year, and if \$6,000 would keep them from expanding, he would not know how they got where they were. Butler said if you raise it from \$1.61 to \$1.98 per thousand, it would be more than \$6,000, plus the meters. Shanklin said these were staff figures. Mayor Powell asked where the \$1.98 came in and Vincent said there is no proposal before Council to raise it to \$1.98 per thousand. Mayor Powell said there is a charge of \$1.98 per thousand for all over 20,000 gallons and that may be where the figure came from.

Beller said the \$1.98 is shown for inside the City limits commercial and Vincent said there should probably be a space there. Beller said we went from outside to inside then and Vincent said yes.

Beller asked if Butler attended any meetings of the OML on the interim study on outside water sales in Oklahoma City on October 13, or Mr. Whatley. Mayor Powell recognized the speaker at the podium and said he would like those answers after this speaker.

Ellery Burdick, President of the Town Council of Geronimo, said they were presently engaged in negotiations with the City and were getting ready to break ground and lay pipes south of town. He said his constituency was 60-70% fixed income and they did not have much leeway when it came to buying water. Burdick said if this price increase goes through, Geronimo may have to back out of the contract and just stay with the water they have now. He said they operate very tightly and do not have any room for price increases; Geronimo is a small community of 800 people and they do not have a whole lot of money to work with. He asked that this be taken into consideration when deciding on a price increase.

Gene Whatley said he appreciated having the opportunity to speak and thanked the Council for being willing to sell water to people outside the City limits and that it was providing a very valuable service because they needed the water supply and were not likely to be able to find it in other areas. He said he would encourage the Council to be sure the water rates were consistent with the law and that they are fair and equitable for the water systems.

Whatley said it had already been pointed out the rates the water districts must charge their customers because of the small customer base and the large area they serve, and their water rates are generally much higher than those of municipalities. He said they serve many fixed income people and any increase on the systems can create a real financial hardship for the small systems trying to exist in rural areas.

Whatley said their association had tried to encourage regionalization of water supplies due to all of the water requirements coming into place, which Lawton is much aware of, and there will be more and more treatment requirements on all public water supply systems. He said it makes sense for people to share a water supply and the concept in Lawton with regionalizing and providing service to the trade area to serve those who shop in Lawton was good, and that he would like to see the State adopt this as a public policy to encourage multi-jurisdictional systems where you achieve the efficiencies of one treatment plant. He said it would save a lot of compliance problems for smaller systems, but that concept will not work if you cannot have a long term, reliable water supply or if they cannot get fair rates in terms of a contract. Whatley said you have a good opportunity in Lawton to generate money from these systems to help pay for Lawton's treatment plant and system, and also generate some profit for the City of Lawton, and there is a lot of money coming into the City from these water sales. He said no one objects to the City making a reasonable profit, but it should be a reasonable profit and the price of the water should be based on those costs that can be allocated to actually treating and delivering the water to the water systems with a reasonable profit. He said the people on the districts should not have to pay for Lawton's entire water system and they get no benefit from the water provided to Lawton's users. Whatley encouraged the City to set fair rates.

Mayor Powell asked if there is another rural water district meeting on the State level. Whatley said the committee on competition between rural water districts and Oklahoma cities and towns has a meeting scheduled for November 10 at the Capital and that is where municipalities and water districts will present proposals for dealing with encroachment and territorial issues and water contract issues. Whatley said they are in the process now, on behalf of the rural water systems, of putting some proposals together for that. Time of the meeting is currently set for 10 a.m. but that may be changed and another notice may be given. Mayor Powell asked for Whatley's phone number and it was given as 405-672-8925.

Purcell said he had a question about the legality, leaving off the cost per meter; if we are charging citizens with the City of Lawton for the first 20,000 gallons \$1.77 and then we go to \$1.98, is there anything in the law saying we are unable to charge the people outside the City limits those same rates, leaving out the charge per meter. Whatley said yes, the Statute that was mentioned, Title 11, Section 37-119 provides that water rates charged by municipalities to those outside the City limits should be based on the cost of producing and delivering water to the purchasing systems, and the rates should be non-discriminatory.

Vincent said he would not get into a legal debate but the Statute says the rates shall be non-discriminatory as to the inside and outside the City limits, plus we can charge an additional amount for cost of delivery to a particular system. Whatley said they were involved on working on this change in the law a few years ago when it went in and the intent and spirit of it was to insure that cities would not charge excessive and unreasonable and unfair water rates, and that the water rates be based on the cost of producing the water, getting the water to the outside sales, and that they did not object to cities making reasonable profits from it.

Purcell said if it is not related to what is charged to citizens inside the city limits, then it would be strictly related to the costs and the law allows a reasonable profit. He said if it cost \$1 to produce 1,000 gallons of water, hypothetically, he asked how much profit could a city make to charge as a reasonable profit. Whatley said his projection and Purcell's would probably be different and that could be worked out with the purchasing system, but to him, 15-20% profit would be all right but that would depend on who you were negotiating with.

Harold Wilson said in 1956, Mr. George Barber, President of American National Bank, called him to a meeting at the Chamber of Commerce building with a group of businessmen because they had a terrible emergency in Lawton. He said they were in the second year of a terrible drought and the wells were all going dry; people with shallow wells were coming to Lawton to buy water. Wilson said there was rationing and Fort Sill had been asked to curtail use also. He said water in the next 25 years may be worth more than oil and we are ruining water at a critical rate. Wilson said this is where the Waurika Lake was born and it was announced at that meeting at that time that the City had figured out the exact cost of water and delivering it to Main Street in Lawton and the cost was thirty-two cents per thousand and they talked about the gravity flow, but the idea was if they could get city water, they could grow Southwest Oklahoma and Lawton to a metropolitan city doing business and picking up all the water business in Southwest Oklahoma, which is what he thought Lawton should still need to do.

Wilson said there are thousands of acres of land between Waurika and where the water enters the southeast corner of Lawton right now. He said one proposal at the time was to sell the water for irrigation purposes, and he explained the concept and profits of irrigation. Wilson suggested Lawton get serious about Waurika water and become a metropolitan community and think about each other and doing things in an orderly manner; thousands of gallons of water are needed between Waurika and Lawton right now for crops.

Wilson said no one had said that Lawton should not be paid well for the water, and the object is in how you pay and what you do with your bookkeeping. He said it costs Pecan Valley about \$8.50 to \$9 per month to maintain the water lines, meters that have to be taken care of, read the meters, bill the people and collect for the water, and have a system that will work. Wilson said if you add \$7.49 up front on their water and they got to 2,000 gallons, it would be over \$20 a month, and they get absolutely nothing in the way of City services. He said he would like the Council to think about what it would take for Pecan Valley to be able to have those services if they are going to be asked to pay this rate for the water.

Wilson reviewed figures which he stated were the City's budget figures for parts of water operations, fire and police. He said this last 12 months there were 4,000 water breaks, and that all of the districts and others also have water breaks. Wilson said he has a \$9 maintenance cost a month, and this is where it gets out of pocket. He said he hoped that someday the City of Lawton would find out what it cost to get a bucket of water to any place or 1,000 gallons because they are all

different, every one of them. He said if they could know that, they would know what the situation entails. Wilson said he had been working on water for nearly 40 years and the Mayor had asked him to serve on a committee, and the Mayor had asked him to call Senator Jim Inhofe and try to get some help on the sewers, and Inhofe asked him when Lawton would pick up the Waurika water and that they had a bird nest on the ground for irrigation and people in other communities.

Wilson said for 2,000 gallons in Lawton, when you add in the fire protection, reading of the meters and billing and police protection and repair and maintenance, you are not going to have anyone paying less than \$20 plus per month, and that does not even touch the parks or streets or the other entities. He said he wanted Lawton to grow as badly as anyone and lived here all his life and had more invested here than some others. Wilson said he would like to work out something that would allow them all to grow. He said he would dedicate himself, if the Mayor would appoint 50 other businessmen, to sell the Waurika water and you could probably pay for it from irrigation. Wilson said it was a great blessing to have more than enough water and he regretted they were arguing about it.

Arnold Owens, Rural Water District #2, said they had just negotiated a contract with Lawton, although they had not yet received any water. He said as a result of the contract signed less than three months ago, they borrowed \$1.5 million to lay lines from the treatment plant to their facilities. Owens said they have 615 meters serving their customers and the \$7.49 per tap, he asked if that would be a charge to each meter, if each of their customers pay \$7.49 for a tap. Shanklin said it does not equate to that; it equates to around \$2.40 per thousand which is comparable to what the citizens of Lawton are paying for the first 6,000 gallons. Owens said the citizens of Lawton are getting their water lines maintained, taken care of the meters. Shanklin said they have a \$320 million investment that Owens does not have. Owens said Lawton has 125,000 people that he does not have. Shanklin said it is about 81,000.

Owens said their board meets tomorrow night and his recommendation would be whether to go on with the contract or not; they have the money in the bank to pay for laying of the lines and the meters have been purchased, but they are not so far along that they cannot stop it. He said they are under contract with the BIA until 2014 so they are not hurting for water; they were buying from Lawton due to availability and they wanted to plan for the future for their residents so they started early because the other contract is not up for 14 years. Owens said their district voted to tie into Lawton's system and appropriated the money to have the availability and opportunity for growth. He said his bill was \$50.10 and if the per meter charge were added it would go to \$69.40 per month.

Owens said they must maintain their lines and meters and tanks, and it costs \$25,000 to have a tank inspected and painted, and those costs are paid by their meter holders. He said they have to pay for any water that goes through the meter, even if it is lost through leakage in their lines. Owens asked that Council realize what this means to several thousand people in the community and that it would stunt the growth in their area, which is from I-44 at the Apache exit to the right, to the county line, to Lake Ellsworth on the east side and six miles on the west side they connect with Rural District #1. He said the land is now divided between the three water districts and they are ready to expand and move forward, but it will depend on Council's decision. Purcell asked if Owens said they had laid pipe to the water treatment plant. Owens said no, they have not laid it yet. Purcell asked if they planned to lay the pipe there and pick up the water at the treatment plant, as opposed to tying onto the line on the east side of town. Owens said yes, they planned to tie in near the plant.

Shanklin said Rural Water District #3 with 550 customers would cost them \$11 a year. He asked Owens if that would preclude progress and said that equates to the \$2.40 per thousand gallons. Owens said he did not see that or understand it that way. Shanklin said we would raise Pecan Valley \$13,200 for 161 customers and that is almost parity with \$2.40 per thousand, and Lawton is faced with a \$33 million expansion on the water treatment plant in order to sell you this water.

Owens said Lawton is faced with that cost no matter what, and faced with the cost of updating Lawton's lines, even if the district turns the meter off tomorrow. Shanklin said they may not make the plant as large if they do not have to sell outside.

Dan Eppler, Rural Water District #3, said they have that membership number but that only one-fourth of them ever seen any Lawton water, the rest of them south of the base line do not get Lawton water. He said the only customers they use Lawton water for are those north of Highway 7; they put it in the water tower to keep the pressure up but it does not migrate south. Shanklin asked if they co-mingle the water at all. Eppler said it co-mingles when it goes into the water tower on Highway 7. Shanklin said that would be worked out on a pro rata share; if only 150 of the customers use the water then that would be worked out in a different manner.

Karen Bishop, Rural Water District #3, said we have talked about how this would impact RWD #3; it will impact them greatly and they have a list of 350 people and have worked through 150 of them as far as laying lines and getting water to them. She said if this is passed tonight, it would stop their growth until they know the exact extent of the impact. Bishop said their only source of revenue is water and they have no taxes or other avenues that are open to municipalities. She said they would need to look for other sources, whether it be ground water or surface water, and under the worst case scenario, they would shut off from Lawton.

Bishop said there are five water districts that surround Lawton; RWD #3 is on the east side, RWD #1 and RWD #2 are on the north side, CKT is on the west side, Cotton County #2 is on the south. She said all of the districts want to buy water at a fair and equitable price. Bishop said if their wells go down or if EPA shuts down ground water, Lawton would be the sole source. She said they were considering stopping any growth and asked if Council had considered what impact this would have on Lawton. Bishop said they had experienced 50% growth in their district in the last three years; 90% of the people

they serve either work or own businesses inside the City of Lawton so they travel back and forth to Lawton and buy gas to be able to do that and pay taxes on it; they do their shopping for food, clothing and big items inside Lawton and pay taxes on them.

Bishop said the homes are being built, whether they are \$50,000 or \$400,000 homes, by builders inside Lawton; the materials are being bought inside Lawton, to include wallpaper and furnishings. She said Lawton is benefitting from this and if this growth stops for any of the districts, Lawton will be impacted. Bishop said there would be an impact through loss of water revenue and all of them were of the opinion they would have to cut back; another impact would be through real estate sales and homes outside of Lawton are sold by Lawton realtors and if there is no water, there will be no sale. She said lending institutions would also be impacted.

Bishop said when someone asks her where she is from, she does not say rural Comanche County, she says Lawton, and considers herself a Lawtonian. She said she would like to see everyone work together in a fair, equitable way to come to some fair agreement on water. Bishop said they buy bulk and surplus water that is not being used by the citizens of Lawton; if they do not buy it, the average citizen is not buying it because their average bills are 8,000 to 10,000 gallons per month, so the water is not being sold otherwise. She said when their pipes break, it they run a million gallons on the ground, they pay for that million gallons. Bishop said it will not impact just the rural area, but it will impact the elderly lady on a fixed income whether she be inside the city limits or outside. She said as far as the CIP and federal mandates, the districts have those mandates and standards to follow also and they are paying into that. Bishop said they know that 50% of their water bill goes into the General Fund and pays for Lawton citizens to have fire protection, police protection, the representation on the Council, and they receive none of that and do not ask for it, but just ask to buy surplus water at a fair price.

Smith asked how many people in the audience were served by rural water and almost all present raised their hands (all seats were full and persons were standing around the walls). Smith asked how many of them worked or had a business in Lawton and the majority raised their hands.

Purcell said they heard that in Rural Water District #1 that 9,000 gallons in a month would cost a citizen about \$31 plus. He asked what 9,000 gallons would cost in RWD #3. Bishop said \$40.75 as they are right now.

Purcell said the City of Lawton is charging for those 9,000 gallons \$9.63 and the districts are charging their customers the rates given, and there are good reasons for that. He said he wanted people to understand that the districts are increasing the prices, and have to do so. Bishop said each system is unique and some own their own systems and some have large loans with the Farmers Home Administration that they are repaying. Bishop said their minimum bill for zero gallons on their system is \$14.50 and that automatically goes to Farmers Home Administration to pay off the debt, and from there it goes into maintenance, salaries and upkeep. She said she did not know if Lawton's monthly water loss was even computed but that they work hard to maintain their water lines and their monthly loss fluctuates from 5 to 15%, depending on line breaks; last year the percentage of water loss was 14% and under FHA and rural water guidelines, that is pretty good because they cannot afford those losses. She said Lawton probably runs out on the ground in one day what all of them buy.

Mayor Powell said he had listened and two or three mentioned contracts that had been negotiated and asked if any rate increase had to be negotiated. Vincent said he had asked Bigham to do a study on them but that it was his understanding that all of the contracts, with the exception of Rural Water District #1 and he was not sure about Medicine Park, but the others have the flow through rate, which is the existing rate at the time the City enters into a contract or as may be approved by the City Council at a subsequent time. Vincent said RWD #1 is the commercial rate, whatever that is set at and that rate can fluctuate, and that he was not sure about Medicine Park.

Purcell said if this were passed, it would not appear to have an impact at all on RWD #1 because it was tied into negotiated rates and theirs would seem to continue. Vincent said the rate per thousand on RWD #1 would go down to ninety-eight cents per thousand or slightly higher and they would not have the \$7.49 and they should have been charged that for the last two or three years as shown in the commercial rates now in the City Code.

Shanklin said he would like for the City Attorney to explain to everyone how they arrived at the costs per gallon, the formula.

Vincent said the City's cost is what they call enterprise fund accounting where you determine the cost to produce a gallon of water delivered to a particular location, which includes all kinds of factors and not just the cost of the raw water, the plant, the plant personnel and electricity and chemicals; those are not the only factors that go into enterprise fund accounting. He said this is the statute that was referred to by Mr. Butler and Mr. Whatley; if we must do enterprise fund accounting to determine the cost of the water, that would include personnel costs for the plant operators, the cost of the equipment, maintenance, amortization on the water plant, repair and maintenance on water lines to wherever you pick up your water, and a myriad of things that go into figuring the cost of a unit of water to a particular place, and it is a very complicated accounting system.

Purcell asked if staff had the numbers on what it cost to produce a thousand gallons of water at the water treatment plant, and if we had the cost to distribute that water to a given spot, realizing it costs less if it is a mile from the plant versus if it is on the southeast side of the city. He said he knew the Internal Auditor did an audit of this and it was looked at by the external auditors and they came up with a number that they said was valid.

Steve Livingston, Finance Director, said the City has maintained a cost system on the treatment of water since 1951 when

we entered into a contract to share the cost of the filter plant with Fort Sill; they pay a percentage of the cost, it is annually audited by the federal government and has been for 50 years so we have accumulated all costs that we could possibly put in this over those numbers of years. He said right now the cost to Fort Sill for water treatment and transmission to Fort Sill is fifty cents per thousand gallons. Livingston said when trying to determine the cost of water it becomes obvious that you have a lake that is a number of years old and a plant that is very old and when you deal with water costs, you deal with assets and equipment with 30 or 60 years of depreciation so a lot of things go into it that makes it appear very cheap. He said when you look at what you are charging into the cost and replacement costs, they become two very different numbers.

Livingston said they were looking today at the \$33 million and what it would cost to replace some of the treatment capacity, and whether it is over the life of the asset and what that life would be, and they would come up with seventy-five cents instead of fifty cents. He said the cost of water is running around fifty cents or a little higher.

Purcell asked about distribution costs. Livingston said the distribution system is a little different; we maintain an enterprise fund system in the City of Lawton and have done so since it was required in the early 1980's and we have maintained costs and depreciation; we had to try to develop the original cost of the distribution system and some of the older lines were depreciated off. Livingston said you go through a lot of work to try to develop an accurate cost and we came up with a historical cost in the 1995 study of about \$1 or a little less. He said you have to add together the cost to treat the water and the cost to distribute the water. Livingston said they were not allocating some of the costs that probably should be allocated as far as overhead but they were still looking at \$1.50 and they were looking at reasonable costs of depreciation to be included.

Purcell asked if the \$1 was the total amount to produce and distribute 1,000 gallons of water. Livingston said \$1.50 roughly.

Shanklin asked for the City Attorney to complete his formula. Vincent said there are items that the City is not including that are attributable to the Water Authority and are not being passed on as part of the enterprise fund which should be included in that accounting system. Vincent said for example, a part of the City Manager's salary, since he is the general manager of the Water Authority and spends time on that, as does the City Attorney's Office to include real estate transactions. Vincent said in the last two months, 50% of the City Attorney's staff time was spent on Water Authority business and none of those costs are flowed through as to the cost of production which should be included in a true enterprise accounting system. Vincent said he was not saying those costs would all be passed on to the outside customers, but in a true enterprise accounting system, those would be included.

Gail Turner, Eastern District County Commissioner, said a problem was resolved last Tuesday night that was 20 years old. He said people from 30 miles around Lawton are in attendance tonight and you may not realize the impact the water has on the economics of Lawton. Turner said when things change drastically after people have spent years in planning and negotiations, they wonder what they are going to do. He said Lawton is a big brother and water has a great impact and development occurs when water becomes available.

Shanklin asked if those in the audience had seen the chart put out by staff. He said the whole impact to the City of Lawton is \$173,000 and there are probably 3,500 people receiving the water so that should be cheap per individual per year.

Shanklin said he did not understand the districts saying a \$3 per tap increase by the City would cost the district's members \$20 because the pipes are already in place and the product would cost another \$3 per month so that should not cause a \$20 per tap increase. He said the impact to RWD #3 would be \$6,000 but the district is saying it would cost them \$15 per customer more and that he did not understand that.

Billy Pennick said they purchased 120 million gallons last year and paid the City \$131,000 for strictly water, and another \$5,300 pumping costs. He said with the proposed increase shown in the resolution, that same amount of water would now cost \$323,652 using the City's formula. Pennick said that is an increase of \$192,632, so when Shanklin says the total impact to the City of Lawton is \$170,000, the total impact to Pennick's district is \$193,000. Pennick said he was now understanding from the City Attorney that they should have been paying for commercial water all along since 1980 but they had not been and had been paying a higher rate and should have been paying a lower rate. Pennick said at this point they were not arguing about that but that he noticed the contract says commercial and the City has a spot that says commercial, but they were not given the opportunity to negotiate and the City was talking about changing terms to a contract so both parties to the contract should have the opportunity to present something and that did not happen.

Shanklin said negotiations could go on for three years and then it would take six weeks to 90 days for staff to work it out, and if Council passed something tonight, nothing would happen until February, March or April of next year.

Pennick said as he understood from Mr. Vincent it would not affect them anyway because they are in a different category and asked if that was correct. Vincent said when Mr. Beller asked what the water rates should be and there being water rates inside the City limits for commercial, according to his understanding of the contract, they should be paying \$21.10 for the first 2,000 and then on down to ninety-eight cents per thousand for over 100,000 gallons, but they are also to be paying the \$7.49 per meter charge which they have not been paying. Pennick said they paid for the meter and Vincent said he was saying per unit. Pennick said he only had three meters and was paying on them. Vincent said on the commercial rate, if you are going to take total advantage of it, it is \$7.49 per each customer you have, in addition to this lower rate. Beller asked where that is stated in the information. Vincent said it is in another section of the code, and Section 22-111 says \$7.49, but that is not in the packet Council has; we are talking about Rural Water District #1 only. Mayor Powell said RWD #1 has a different contract from the others as he had learned this evening.

Butler said he wanted to address Mr. Shanklin's comments and there was apparently a disagreement on what the formula would mean to the bottom line of what they would have to pay. He said Shanklin is saying it will cost \$6,200 per year or maybe \$6,500 per year. Butler said he would suggest that rather than having a complicated formula that the City staff may interpret differently from the Council, if it needs to be raised, why not just raise it X amount of dollars instead of some formula where they did not know what they were getting, if the raise is necessary. He said he did not think under the signed contract or the statute that it was appropriate, and according to Mr. Livingston's comments, he did not feel the City could justify a rate increase at all because he said you sell to Fort Sill for fifty cents. Butler said a line cost of \$1 was stated and they pay \$1.61 right now and that did not add up to him. He said if you have to do it, rather than using some hocus pocus formula, just set a finite amount so everyone will know what they are getting, if you think you have to raise it. Butler said he did not think it had to be raised based on what Mr. Livingston said.

Shanklin said we have a contract with Fort Sill. Butler said the City had contracts with the districts too. Shanklin said Fort Sill audits the fifty cents and the lines go across Fort Sill and they helped build it. Butler said Mr. Vincent said you had to pay the lawyer's salary out of it and that he had never heard of that. Vincent said the water district is paying Butler tonight.

Mayor Powell said Fort Sill does pay that amount and that he appreciated the input, but Fort Sill brings in \$2.78 million to Lawton-Fort Sill and Southwest Oklahoma each and every day. He said we are being criticized for selling to our other industries at perhaps a cheaper rate but they employ large amounts of people and perhaps some of those in the audience. Mayor Powell said if someone comes in to buy a ton of merchandise, they may get it cheaper. Harold Wilson spoke about the tornado that hit Pecan Valley and said they lost 1.6 million gallons of water that they had to pay for as a result of the storm damage.

Williams said this is such a broad issue that touches so many lives, and from the information before Council this evening, he did not feel he could even begin to identify what prices should increase or what should be done for the long term benefit of consumers that will use water in Southwest Oklahoma. He said he would like for it to either be sent back to the Outside Water Sales Committee for review and maybe working with the water districts or have another group take a look at it. Williams said he did not feel a decision could be made tonight.

MOVED by Shanklin, SECOND by Williams, to send this back to Outside Water Sales and that the group try and get a feel of what other cities are selling the water for and how they arrive at their costs.

Shanklin said he represented probably the poorest ward in Lawton, Ward 5, and he had not found one person who felt the water should be sold cheaper to outside consumers than what they have to pay for it themselves. He said they get police and fire protection but not like some other areas of town.

Purcell said he agreed with the motion. He said he felt the committee should consider the fact that we are talking about three different entities that we have heard from tonight; we have the entity of cities and towns, such as Geronimo, and they need to be treated differently than rural water districts, and there are several of those present tonight and they are quasi-governmental in nature and they need to be treated differently than cities or towns, such as Geronimo. Purcell said the third group that we have heard from tonight are the private water associations, so we need to address how we will treat those three different entities when we come back as part of the consideration on outside water sales.

Beller said his concern was about the negotiations between the parties. He said he was a beginner with the Outside Water Sales Committee, which he has been privileged to sit on, but felt the negotiations should take place between the attorneys. Beller said Livingston tried to give a ball park figure and then Mr. Vincent, in his effort to try to say what costs are involved, has brought in everything but the kitchen sink and that he was not sure that was part of the formula for determining the cost of water. He said he felt we needed to determine a fair cost of water and that the people outside the City limits should not get it one cent cheaper than the people who live inside the City limits, but also he did not feel the outside people should pay any more than the inside people. Beller said they should pay their fair share, and there should be negotiation with the parties and not just discussion by the Outside Water Committee, we need these people involved.

Warren said he had placed a handout at everyone's desk showing the City of Tulsa's water rates. He said rather than re-inventing the wheel, we could look at this because there are some really good ideas and it is divided into three areas; city sales inside the city limits, outside individual accounts, and sale to municipal corporations, water districts and so forth. Warren said he serves on the Outside Water Committee also and would like some direction from Council as to whether they are willing to charge the \$7.50 per account and that was the problem with this. He said he had no problem in raising the cost per thousand to whatever it needed to be raised to, but that he could not support charging water districts and cities that are in the business of providing people with infrastructure a per unit cost. Warren said he did not think Lawton could show that it had spent that money because we do not read the meters or keep up with the infrastructure, and we do provide them with water. He said they should pay whatever extra it costs to get that water there; if we have to pump it to a tower to get it there, they should have to pay for that, but they should not have to pay \$7.50 per house just because they are getting our water. Warren said they should pay that but they should pay it to their water district or to their city or whoever is taking care of their infrastructure.

Smith said Lawton has two types of customers, retail customers and wholesale customers. He said retail customers require a lot of work; wholesale customers maintain all of their own infrastructure. He agreed they should be charged a fair price and that we should ascertain what that fair price would be and that he would not support the \$7.49 charge on each meter

outside the city limits where we have no responsibility for maintaining the infrastructure.

Shanklin read from the information from Tulsa and said it was higher than Lawton's charge. Warren agreed and said they do not charge per house; he said we do not have to take their prices but there is a concept of charging people a user fee when we are not taking care of them and that is ridiculous.

Mayor Powell said there is a sense of urgency in this meeting being called from the standpoint that he heard two or three talk about being held up and they had bought pipes and were not going to put them in place, and Mr. Owens spoke about that and Mrs. Bishop talked about being at a stalemate and perhaps one other district. He said he hoped the meeting would include representation from these groups this evening so that input could be provided.

Mayor Powell asked if Mr. Whatley could let staff know when the meeting would be held in Oklahoma City and what room so we could have someone attend. He said he was not aware of the contracts and negotiations and had heard about it two or three times tonight. Mayor Powell said he appreciated the input and professionalism shown tonight.

Purcell said he heard two members of the Outside Water Committee say they needed some guidance on the \$7.49 and that he did not support that \$7.49, and perhaps a consensus could be given so they would know. Shanklin said he did not support the \$7.49.

VOTE ON MOTION: AYE: Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

Beller said the Mayor did an excellent job of chairing the meeting. He said on Wednesday at 10 a.m. at the Metro Hangar at the Airport they would appreciate all who could make it.

Smith said there will be a blood drive for the employees on November 22 for the holidays and we will be in competition with our Fort Sill Coop Partner. He said anyone who wants to participate is welcome.

Mayor Powell said those in attendance have friends and relatives in the Lawton city limits and we are having a CIP vote on November 9 which is very important.

There was no further business to consider and upon motion, second and roll call vote the meeting adjourned at 7:42 p.m.